

DT04 Rec'd PCT/PTO C 05 DEC 2003

PTO/SB/2J (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	09/806,709
		Filing Date	
		First Named Inventor	Sheena M. Loosmore
		Art Unit	
		Examiner Name	
Total Number of Pages in This Submission		Attorney Docket Number	1038-1138 MIS

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> <input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> <input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)		
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
Petition To Withdraw Holding Of Abandonment		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Michael I. Stewart Registration No. 24,973
Signature	
Date	December 3, 2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sheena M. Loosmore et al.
Appl'n. No. : 09/806,709
Filed : N/A
Title : PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE
HIGH MOLECULAR WEIGHT PROTEINS
Docket No. : 1038-1138 MIS:sd

December 3, 2003

BY COURIER

The Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
U.S.A.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

A Notice of Abandonment has been received on this application dated October 24, 2003. A copy of that Notice is enclosed. The abandonment is said to be for:

"...an incomplete reply was received to the Notice mailed on 05/07/2001. The reply did not include:
- A statement that the CRF is the same as the content of the sequence listing on paper or compact disc."

It is submitted that this is incorrect and the Holding of Abandonment should be withdrawn.

A Notification of Missing Requirements was mailed May 7, 2001. This document was a single sheet, copy enclosed as Exhibit I, which made no mention of any requirement for a Sequence Listing. This Notification was responded to on July 26, 2001, meeting the requirements specifically called for in the Notification.

Subsequently, there was received a Notification of Defective Response dated September 3, 2002. This Notification identified that the specification did not contain a Sequence Listing and required submission of:

- An initial or substitute computer readable form (CRF) of the Sequence Listing.
- An initial or paper copy or computer disk of the Sequence Listing, as well as an amendment directing its entry into the specification.

On September 26, 2002, in response to this Notification, there was submitted to the Office a Sequence Listing in computer-readable and hard-copy forms and a Voluntary Amendment directing entry of the Sequence Listing into the specification. A copy of the letter of September 26, 2002 is enclosed as Exhibit II as well as a copy of the return postcard showing receipt by the PTO on September 27, 2002 as Exhibit III.

The letter of September 26, 2002 contains the statement:

"It is hereby stated under the signature of the undersigned that the computer-readable and hard-copy forms of the Sequence Listing are the same."

Thus, the statement said to be missing and causing the Holding of Abandonment is already of record, and hence, the application should not be abandoned.

Accordingly, it is hereby requested that the Holding of Abandonment be withdrawn.

Respectfully submitted,



M.I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada,
(416) 595-1155
FAX No. (416) 595-1163

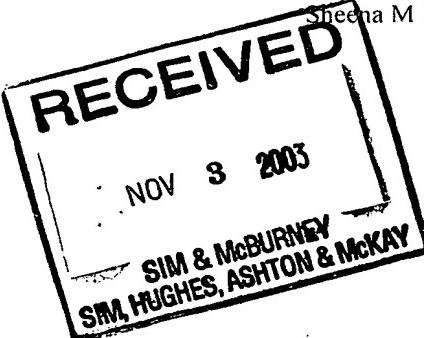


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/806,709		Sheena M Loosmore	1038-1138 MIS:jb

24223
SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO, ON M5G 1R7
CANADA



CONFIRMATION NO. 5961
ABANDONMENT/TERMINATION
LETTER

OC000000011097905
OC000000011097905

Date Mailed: 10/24/2003

NOTICE OF ABANDONMENT

UNDER 37 CFR 1.821(g)

Applicant's reply received on 07/27/2001 is acknowledged.

- The above-identified application is abandoned because an incomplete reply was received to the Notice mailed on 05/07/2001. The reply did not include:
 - A statement that the CRF is the same as the content of the sequence listing on paper or compact disc.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sheena M. Loosmore, et a.
Appl'n. No. : 09/806,709
Title : PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE
HIGH MOLECULAR WEIGHT PROTEINS
Docket No. : 1038-1138 MIS:jb
Date : September 26, 2002 *Received Dec 2, 03*

BY COURIER

The Commissioner of Patents
and Trademarks,
Box SEQUENCES
Washington, D.C. 20231,
U.S.A.

VOLUNTARY AMENDMENT

Dear Sir:

Please amend this application in the following manner:

In the Specification:

Please add the hard copy of the Sequence Listing following page 64
and immediately preceding the claims.

REMARKS

This Voluntary Amendment inserts the Sequence Listing into the
specification.

Respectfully submitted



Michael I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada
(416) 595-1155
FAX No. (416) 595-1163

Exhibit III

Date: September 26, 2002

Applicant: Sheena M. Loosmore, et al.

Application No: 09/806,709

Title: PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE HIGH

MOLEUCLAR WEIGHT PROTEINS

New Appln, Cheque, Formal Papers: ()

Retyped Required in Notice of Allowance: ()

Final Fee: ()

Other: Response to the Notification of Defective Response, Sequence Listing and Diskette
containing Sequence Listing

Due Date: October 3, 2002

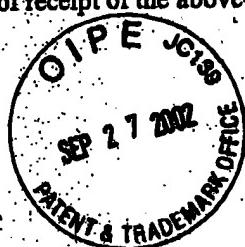
Please place the official stamp of the Patent Office on this card and return it to us for our
files to constitute an acknowledgment by the Patent Office of receipt of the above-identified
papers on the date stamped.

RECEIVED

09/27/02
SIM & McBURNEY
SIM HUGHES, ASHTON & MCKAY

SIM & McBURNEY

1038-1138 MIS:jb



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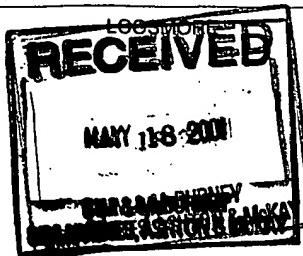
Exhibit I



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
 United States Patent and Trademark Office
 Washington, D.C. 20231
www.uspto.gov

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/806709	SIM & MCBURNEY	S 1038-1138 MI
330 UNIVERSITY AVENUE 6TH FLOOR TORONTO, ONC 517		INTERNATIONAL APPLICATION NO. PCT/CA99/00938
		I.A. FILING DATE 07 OCT 99
		PRIORITY DATE 07 OCT 98
DATE MAILED: 07 MAY 2001		



NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494) an Elected Office (37 CFR 1.495):
 - U.S. Basic National Fee.
 - Copy of the international application.
 - Oath or Declaration of inventors(s).
 - Copy of Article 19 amendments.
 - Priority Document.
 - The International Preliminary Examination Report in English and its Annexes, if any.
 - Translation of Annexes to the International Preliminary Examination Report into English.
 - Indication of Small Entity Status.
 - Translation of the international application into English.
 - Translation of Article 19 amendments into English.
 - Other: Inventor Information Sheet; Preliminary Amendment
2. Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.
 - U.S. Basic National Fee.
 - Copy of the international application.
3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
 - a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
 - The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
 - b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
 - c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
 - The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
 - d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).
4. Additional claim fees of \$ _____ as a large entity small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.
5. Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes MUST be submitted no later than the time period set above or the Annexes will be cancelled. A processing fee will be required if submitted later than 20 or 30 months from the priority date.
7. The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

Enclosed: PCT/DO/EO/917 Notice of Defective Translation
 PTO-875 PCT/DO/EO/920

Francine Young

Telephone: 703-305-3662

FORM PCT/DO/EO/905 (March 2001)

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